

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BETTY KULINSKI,

Plaintiff,

vs.

YATES DIAL-A-RIDE,

Defendant.

Case No. 1:18-cv-1422-JTN-ESC

HON. JANET T. NEFF

U.S. MAGISTRATE JUDGE ELLEN S.
CARMODY

Betty Kulinski <i>In Pro Per</i> 8304 South Jefferson Way Baldwin, MI 49305 231.408.1024 bettykulinski@rocketmail.com	Anthony R. Comden (P44958) MILLER JOHNSON Attorneys for Defendant 45 Ottawa Avenue, SW, Suite 1100 Grand Rapids, MI 49503 616.831.1700 comdent@millerjohnson.com
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**DEFENDANT'S REPLY BRIEF IN SUPPORT OF ITS
MOTION FOR JUDGMENT ON THE PLEADINGS**

I. Plaintiff's Brief is Untimely

On March 20, 2019, Defendant Yates Dial-A-Ride filed a Motion for Judgment on the Pleadings [Dkt. 14]. Some 47 days later, Plaintiff filed a brief that appears to be in opposition to Defendant's Motion [Dkt. 23]. Local rule 7.2(c) requires that a party opposing a dispositive motion must file its response with 28 days. Plaintiff's brief is almost three weeks late and continues her pattern of ignoring this Court's orders and rules. In fact, the Court previously

warned Plaintiff that it may sanction her and dismiss her case “for failure to prosecute and failure to follow the rules and orders of the court.” (March 21 Order, Dkt 16.)

II. Plaintiff’s Brief is Largely Unresponsive to the Issues Presented in Defendant’s Motion for Judgment on the Pleadings

Defendant’s Motion for Judgment on the Pleadings is based on Plaintiff’s failure to exhaust administrative remedies and failure to file her lawsuit within 90 days of receiving a notice of dismissal from the Equal Employment Opportunity Commission (“EEOC). Plaintiff’s argument numbers two through ten in her Brief are not relevant to the dispositive issues before the Court. Instead, they relate to the alleged “merits” of her claims.

In her first argument, Plaintiff claims that she filed this lawsuit “within the time frame of statutes set by this court.” [Dkt. 23, PageID.104.] As support, Plaintiff attached two documents she received from the EEOC: the May 29, 2018 Notice of Suit Rights and the September 21, 2018 Notice of Suit Rights. However, Plaintiff does not address Defendant’s argument that the 90 day clock to file her lawsuit began when she received the May 29 Notice, not the September 21 Notice. Plaintiff does not offer any explanation about her failure to file a lawsuit within 90 days of her receipt of the May 29 Notice, nor does she challenge Defendant’s legal authority supporting its argument that her claims are untimely. Likewise, Plaintiff does not respond to Defendant’s argument that she failed to exhaust her remedies with the EEOC regarding her retaliation claim.

III. Conclusion

For these reasons, and the reasons set forth in Defendant’s Motion for Judgment on the Pleadings and Brief in Support, Defendant requests that the Court grant its Motion and dismiss Plaintiff’s lawsuit in its entirety.

MILLER JOHNSON

Attorneys for Defendant

Dated: May 8, 2019

By /s/ Anthony R. Comden

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 8, 2019 the foregoing document was electronically filed with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF or by U.S. first class mail for those counsel or parties who are not authorized to receive electronic Notices of Electronic Filing.

Date: May 8, 2019

By: /s/ Anthony R. Comden

Anthony R. Comden (P44958)